

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

I-FLOW CORPORATION, a Delaware corporation,) Case No.
Plaintiff,) Pat. # 5,284,481
v.) COMPLAINT FOR PATENT INFRINGEMENT
ALPIN SURGICAL SPECIALTIES, INC., a Pennsylvania corporation.)
Defendants.) DEMAND FOR JURY TRIAL

Plaintiff I-FLOW CORPORATION ("I-Flow") hereby complains of Defendant ALPIN SURGICAL SPECIALTIES, INC. ("Alpin"), and alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Patent Laws of the United States, Title 35 of the United States Code.
2. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338..
3. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391 and 1400(b).

THE PARTIES

4. Plaintiff I-Flow is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 20202 Windrow Drive, Lake Forest, CA 92630.
5. I-Flow is informed and believes, and thereon alleges, that Defendant Alpin is a corporation organized and existing under the laws of the State of Pennsylvania, having a place of business at 105 Lincoln Avenue, Butler, PA 16001.

6. I-Flow is informed and believes, and thereon alleges, that Alpin conducts business throughout New York, Pennsylvania, Ohio, and West Virginia, including in this Judicial District, and have committed the acts complained of in this Judicial District and elsewhere.

RELEVANT FACTS

7. On February 8, 1994, the U.S. Patent and Trademark Office ("PTO") duly and lawfully issued U.S. Patent No. 5,284,481 entitled "Compact Collapsible Infusion Apparatus" (the "481 patent"). I-Flow is the owner by assignment of the '481 patent. A copy of the '481 patent is attached hereto as Exhibit A.

8. The SOLACE™ Post-Operative Pain Relief Infusion System, marketed by Alpin, includes an infusion pump (the "SOLACE™ Infusion Pump") that is covered by the '481 patent.

9. I-Flow is informed and believes, and thereon alleges, that Alpin, through its agents, employees and servants, has infringed I-Flow's patent rights through their making, using, selling, importing and/or offering to sell infusion pumps such as the SOLACE™ Infusion Pump.

10. This infringement has been willful, the Defendants have actual knowledge of I-Flow's patent rights.

11. I-Flow is informed and believes, and on that basis alleges, that Alpin uses, sells and offers for sale pain management devices, including, but not limited to, the SOLACE™ Infusion Pump.

12. By the aforesaid acts of Defendants, I-Flow has been greatly damaged, and will continue to be irreparably damaged unless Defendants are enjoined by the Court.

FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 5,284,481)

13. I-Flow repeats, realleges, and incorporates by reference the allegations set forth in paragraphs 1 through 12 of this Complaint.

14. This is a claim for patent infringement and arises under the Patent Laws of the United States, Title 35 of the United States Code.

15. I-Flow is informed and believes, and thereon alleges, that Defendant Alpin, through its agents, employees and servants, has been and is currently willfully and intentionally infringing the '481 patent by using, selling, importing, offering to sell and/or inducing others to use infusion pumps, such as the SOLACE™ Infusion Pump, that are covered by at least one claim of the '481 patent. Defendants' acts constitute infringement of the '481 patent in violation of 35 U.S.C. § 271.

16. Defendant Alpin has been and is currently committing these acts of infringement without license or other authorization from I-Flow.

17. I-Flow is informed and believes, and thereon alleges, that Defendant Alpin's infringement will continue unless enjoined by this Court.

18. I-Flow is informed and believes, and thereon alleges, that Defendant Alpin has derived and received, and will continue to derive and receive, gains, profits and advantages from the aforesaid acts of infringement in an amount that is not presently known to I-Flow. By reason of the aforesaid infringing acts, I-Flow has been damaged and is entitled to monetary relief in an amount to be determined at trial.

19. Because of the aforesaid infringing acts, I-Flow has suffered and continues to suffer great and irreparable injury, for which I-Flow has no adequate remedy at law.

WHEREFORE, I-Flow prays for judgment in its favor against Defendants for the following relief:

- A. An Order adjudging Defendant Alpin to have infringed the '481 patent;
- B. That Defendant Alpin, its respective officers, directors, agents, servants, employees and attorneys, and all those persons in active concert or participation with it, be forthwith preliminarily and thereafter permanently enjoined from directly or indirectly infringing the '481 patent;
- C. That Defendant Alpin account for all gains, profits, and advantages derived by its infringement of the '481 patent;
- D. That a judgment be entered against Defendant Alpin awarding I-Flow all damages proven at trial, and in no event less than a reasonable royalty, for infringement of the '481 patent;
- E. That the damages in this judgment be trebled for Defendant Alpin's knowing, intentional and willful infringement of the '481 patent;
- F. That there be an assessment of pre-judgment and post-judgment interest and costs against Defendant Alpin and in favor of I-Flow, and an award of this interest and costs to I-Flow;
- G. That this be judged an "exceptional" case within the meaning of 35 U.S.C. § 285, and that I-Flow be awarded its attorneys' fees pursuant thereto, recoverable from Defendant;
- H. For an award to I-Flow of any and all other specific, general, and compensatory damages according to proof;
- I. For such other and further relief as this Court may deem just.

Respectfully submitted,

/s/ Louis A. DePaul

Robert D. Finkel

Pa. I.D. #71130

rfinkel@mmlpc.com

Louis A. DePaul

Pa. I.D. #93823

ldepaul@mmlpc.com

MANION MCDONOUGH & LUCAS, P.C.

Suite 1414 - U.S. Steel Tower

600 Grant Street

Pittsburgh, PA 15219

412-232-0200

412-232-0206 (fax)

Steven J. Nataupsky (State Bar No. 155,913)

snataupsky@kmob.com

Michael K. Friedland (State Bar No. 157,217)

mfriedland@kmob.com

Boris Zelkind (State Bar No. 214,014)

boris.zelkind@kmob.com

Ali S. Razai (State Bar No. 246,922)

ali.razai@kmob.com

KNOBBE, MARTENS, OLSON & BEAR, LLP

2040 Main Street, 14th Floor

Irvine, CA 92614

Telephone: (949) 760-0404

Facsimile: (949) 760-9502

Attorneys for Plaintiff
I-FLOW CORPORATION

OJS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS <u>I-Flow Corporation, a Delaware corporation</u> (b) County of Residence of First Listed <u>Lake Forest, CA</u> (EXCEPT IN U.S. PLAINTIFF CASES)		DEFENDANTS <u>Alpin Surgical Specialties, Inc., a Pennsylvania corporation</u> County of Residence of First Listed Defendant <u>Butler County, PA</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys _____	
(c) Attorneys <u>See Attachment Exhibit "A"</u> (Firm Name, Address, and Telephone Number)		Attorneys (if Known)	
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)	
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> Federal Question (U.S. Government Not a Party)		Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4	
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5	
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6	

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defashed Student Loans (Ex. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS <input checked="" type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Eviction <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Torts Product Liability <input type="checkbox"/> 290 All Other Real Property	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	BANKRUPTCY <input checked="" type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 430 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
CIVIL RIGHTS <input type="checkbox"/> 431 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRIISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 520 General <input type="checkbox"/> 533 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 553 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (933) <input type="checkbox"/> 863 DIW C/DIWW (405(g)) <input type="checkbox"/> 7864 SSD Title XVI <input type="checkbox"/> 885 RSI (405(g))	
IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		FEDERAL TAX SUITS <input type="checkbox"/> 872 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609		

V. ORIGIN (Place an "X" in One Box Only)			
<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment			

VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>35 U.S.C. §271</u> Brief description of cause: _____		
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VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23		DEMAND \$ _____		CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
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VIII. RELATED CASE(S) IF ANY		(See instructions): JUDGE _____		DOCKET NUMBER _____	
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DATE <u>9/4/08</u>		SIGNATURE OF ATTORNEY OF RECORD <u>J. A. Delatt</u>	
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FOR OFFICE USE ONLY

RECEIPT # _____	AMOUNT _____	APPLYING IFFP _____	JUDGE _____	MAG. JUDGE _____
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JS 44 AREvised OCTOBER, 1993

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the Erie Johnstown Pittsburgh) calendar.

1. ERIE CALENDAR - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venango or Warren, OR any plaintiff or defendant resides in one of said counties.

2. JOHNSTOWN CALENDAR - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.

3. Complete if on ERIE CALENDAR: I certify that the cause of action arose in _____ County and
that the _____ resides in _____ County.

4. Complete if on JOHNSTOWN CALENDAR: I certify that the cause of action arose in _____ County
and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number _____ Judge _____
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit.

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

1. CIVIL CATEGORY (Place x in only applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas Corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), VA Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties; and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

DATE 9/4/08 ATTORNEY ATTORNEY AT LAW _____

NOTE: ALL SECTIONS OF BOTH SIDES MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

EXHIBIT "A"

Robert D. Finkel
Pa. I.D. #71130
rfinkel@mmlpc.com
Louis A. DePaul
Pa. I.D. #93823
ldepaul@mmlpc.com
MANION MCDONOUGH & LUCAS, P.C.
Suite 1414 - U.S. Steel Tower
600 Grant Street
Pittsburgh, PA 15219
412-232-0200
412-232-0206 (fax)

Steven J. Nataupsky
(State Bar No. 155,913)
snataupsky@kmob.com
Michael K. Friedland
(State Bar No. 157,217)
mfriedland@kmob.com
Boris Zelkind
(State Bar No. 214,014)
boris.zelkind@kmob.com
Ali S. Razai
(State Bar No. 246,922)
ali.razai@kmob.com
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
Telephone: (949) 760-0404
Facsimile: (949) 760-9502